

EXHIBIT B

Page 1

1
2 UNITED STATES DISTRICT COURT
3 NORTHERN DISTRICT OF ILLINOIS
4 EASTERN DIVISION

5 -----X
6 CYNTHIA RUSSO, LISA BULLARD,
7 RICARDO GONZALES, INTERNATIONAL Case No.
8 BROTHERHOOD OF ELECTRICAL WORKERS 1:17-CV-02246
9 LOCAL 38 HEALTH AND WELFARE FUND,

10 INTERNATIONAL UNION OF OPERATING
11 ENGINEERS LOCAL 295-295C WELFARE
12 FUND, and STEAMFITTERS FUND LOCAL
13 439, on Behalf of Themselves and
14 All Others Similarly Situated,

15 Plaintiffs,

16 vs.

17 WALGREEN CO.,

18 Defendant.

19 -----X

20 ** CONFIDENTIAL **

21 STENOGRAPHIC AND VIDEO-RECORDED
22 REMOTE VIRTUAL DEPOSITION OF
23 JED R. SMITH

24 Friday, April 28, 2023

25 10:03 a.m.

1 CONFIDENTIAL - SMITH

2 identify PSC prices in this action, right?

3 A. I applied Dr. Hilton's methodology and I
4 adjusted it for the purposes of applying the PSC
5 enrollment fee, but other than that that's the
6 only methodology I applied.

7 Q. You didn't create your own methodology
8 for identifying PSC prices?

9 A. I did not.

10 Q. How did you adjust Dr. Hilton's
11 methodology?

12 A. As discussed in my report, I applied
13 Dr. Hilton's methodology. And then the only
14 variation, when it came to selecting PSC prices in
15 analyzing her analysis, was to calculate an
16 allocation of the PSC enrollment fee per
17 Ms. Nordby's expert report.

18 Q. So you're offering no opinion that
19 relies on your own methodology as to what the PSC
20 price should be in connection with any PSC drug,
21 correct?

22 MR. LEIB: Objection.

23 A. It was for this part of the matter I was
24 not asked to calculate a specific PSC price for
25 any given transaction, so I analyzed Dr. Hilton's

Page 184

1 CONFIDENTIAL - SMITH

2 PSC prices and applied the enrollment fee per my
3 scope of work.

4 Q. When you say, "for this part of the
5 matter," what do you mean?

6 A. The class certification discussion.

7 Q. And so it's your understanding that in a
8 later phase of this matter you may develop a
9 separate methodology for identifying PSC prices?

10 A. My understanding that if the matter
11 proceeded past class certification, I may or may
12 not be asked to perform damages calculations or
13 other items that may require a PSC price
14 calculation or analyzing further plaintiffs'
15 experts' PSC price determinations, but I don't
16 know if I will or will not.

17 Q. I'd like you to turn to page 30 of your
18 report.

19 A. I'm there.

20 Q. Table 17. The final column there refers
21 to the Correct 30 Pill PSC Price. Do you see
22 that?

23 A. I see that.

24 Q. Without developing your own methodology
25 to identify PSC prices, what is the basis for your

Page 211

1 CONFIDENTIAL - SMITH
2 [REDACTED]
3 [REDACTED]
4 Q. [REDACTED]
5 [REDACTED]
6 A. [REDACTED]
7 Q. [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 MR. LEIB: Objection.
13 A. [REDACTED]
14 [REDACTED]
15 [REDACTED] [REDACTED]
16 [REDACTED]
17 Q. [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 A. [REDACTED]
22 Q. [REDACTED]
23 [REDACTED]
24 A. [REDACTED]
25 Q. [REDACTED]

Page 213

1 CONFIDENTIAL - SMITH

2 Q. [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 A. [REDACTED]

6 Q. [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 MR. LEIB: Objection.

10 A. [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 Q. [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 MR. LEIB: Objection.

20 A. [REDACTED]

21 Q. [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED] [REDACTED]

1 CONFIDENTIAL - SMITH

2 [REDACTED]

3 A. [REDACTED]

4 [REDACTED]

5 Q. [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 A. My review of Dr. Hilton's report and
10 scripts, I could not determine what she used for
11 the Connecticut Reconciliation data.

12 When I reviewed her prices where we
13 disconnected on Connecticut Medicaid
14 reconciliation, I looked at all different
15 possibilities, and if the price she selected could
16 tie to one of those, then it was not one of the 72
17 I identified.

18 Q. When you couldn't determine what price
19 she used, did you consider that your
20 methodology -- strike that.

21 When you couldn't determine the price
22 that she used, did you consider that your
23 replication of her methodology was incorrect?

24 A. When I could not replicate her price
25 from the Connecticut Medicaid Reconciliation data,

Page 218

1 CONFIDENTIAL - SMITH

2 we looked at as much information as we could from
3 the source Connecticut Medicaid Reconciliation
4 files to determine other possibilities of how she
5 determined that price. And if I could not
6 reconcile it under a different alternative
7 methodology, then that is how it remained in
8 exhibits or in the 72 files in my exhibit. 72
9 records.

10 (Programming Script, Bates

11 HILTON_0000034 to HILTON_0000045, marked as
12 Exhibit 539, as of this date.)

13 BY MR. ALEXANDER:

14 Q. I've marked as Exhibit 539 a document
15 Bates stamped HILTON_34 to 45. Please let me know
16 when you have it up.

17 A. I have it.

18 Q. Do you recognize this document?

19 A. Yes.

20 Q. What is it?

21 A. It is one of the programming scripts
22 that Dr. Hilton produced.

23 Q. I'd like you to turn down to page
24 HILTON_40. Let me know when you're there.

25 A. I'm there.

Page 317

1
2 C E R T I F I C A T E
3

4 I, JOSEPHINE H. FASSETT, a Registered
5 Professional Reporter, Certified Court Reporter, and
6 Notary Public of the states of New York and New
7 Jersey, do hereby certify that the witness, whose
8 stenographic remote virtual deposition is
9 hereinbefore set forth, was first duly sworn by me
10 on the date indicated, and that the foregoing
11 stenographic remote virtual deposition is a true and
12 accurate record of the testimony given by such
13 witness.

14 I FURTHER CERTIFY that I am not employed by nor
15 related to any of the parties to this action by
16 blood or marriage, and that I am in no way
17 interested in the outcome of this matter.

18 IN WITNESS WHEREOF, I have subscribed my hand
19 this 10th day of May 2023.

20
21 
22

23 JOSEPHINE H. FASSETT, RPR, CCR
24 NCRA License No. 32148
25 CCR License No. 30XI00098400
 New York Notary Public
 New Jersey Notary Public